



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

VEAS et al.

Atty. Ref.: 1721-29; Confirmation No. 2289

Appl. No. 09/856,707

TC/A.U. 1648

Filed: May 25, 2001

Examiner: Parkin

For: GP 120 MUTANTS AND BIOLOGICAL APPLICATIONS

* * * * *

March 7, 2005

Mail Stop 16

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

REFUND REQUEST ✓

Refund to the undersigned's Deposit Account No. 14-1140 of the three month extension fees (a total of \$1020) submitted herewith is requested for the following reasons.

A reply to the final rejection of April 7, 2004 was filed November 2, 2004. A Notice of Appeal was filed October 7, 2004. The reply was forwarded to the Examiner for Action on November 21, 2004. See, attached PAIR printout. The next due date for action by the applicants without requirement of an extension fee would have been December 7, 2004.

On January 6, 2005, the undersigned telephoned the Examiner requesting an indication of the status of the application and an indication of when the Examiner would

act on the reply which was forwarded to him 5 weeks earlier. No reply was received from the Examiner.

On February 7, 2005, the undersigned spoke with the Examiner who indicated that the Examiner hoped to "get to the file this bi-week". No response to the reply was received nor has a response been received to date.

On March 7, 2005, the undersigned reviewed the PAIR and IFW pages and found that an Advisory Action has apparently been counted and/or mailed (i.e., listed in the PAIR page) even though the same is not available to the undersigned through the IFW (see, attached printout of the IFW index). The undersigned telephoned the Examiner on March 7, 2005 to request a copy of the Advisory Action and/or any information on the status of the application. As of the filing of the attached RCE, the undersigned has not received a response from the Examiner.

The undersigned is filing herewith an RCE to Request Continued Examination and foreclose the possibility of a requirement to pay the Patent Office for further extensions.

The present Refund Request is being filed to request a refund of the attached three month extension fees as the Patent Office should not require the applicants to pay for a three month delay in the Patent Office acting on an after-final response.

The undersigned submits that the Patent Office action in taking **four** months to apparently inform the applicants with regard to the status of the Amendment of November 2, 2004 is a failure to "promptly" inform the applicants, as required by MPEP § 714.13 (III).

Moreover, the Patent Office has failed in this regard to meet the Patent Office stated "expectation" that an Examiner is expected to "turn in a response to an amendment after final rejection within 10 calendar days from the time the amendment is received by the examiner." Id. In the present case, the Examiner would have been expected to turn in a response by December 3, 2004. Presumably, this would have allowed the applicants to file the attached RCE without requiring any additional extension fees. The undersigned's firm is located in Arlington, VA and regularly receives mail from the USPTO within a day or two. Moreover, the undersigned could have retrieved the same from the IFW had the Examiner turned in the Advisory Action with the Patent Office expected time frame.

Finally, the Patent Office Action is contrary to the Patent Office stated policy that "a reply to an amendment after final rejection should be mailed within 30 days of the date the amendment is received by the Office." Id. As evidenced by the attached PAIR printout, the amendment of November 2, 2004 was received by the Patent Office on November 2, 2004. According to the Patent Office's own requirements and stated guidelines therefore, the response to the amendment should have been mailed by December 1, 2004, which would have provided the applicants ample opportunity to file an RCE without requiring extension fees by the December 7, 2004 due date set by the filing of the Notice of Appeal on October 7, 2004.

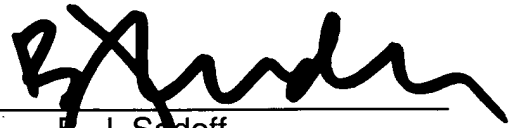
Refund of the attached \$1020 three month extension fee to the undersigned's Deposit Account No. 14-1140, is requested.

VEAS et al.
Appl. No. 09/856,707
March 7, 2005

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: _____



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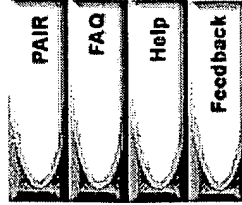


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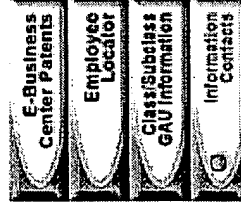
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PATENT APPLICATION INFORMATION RETRIEVAL



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Search results as of: 3-7-2005::13:3:43 E.T.

Search results for application number:09/856,707				
Application Number:	09/856,707	Customer Number:	23117	
Filing or 371(c) Date:	06-21-2001	Status:	Notice of Appeal Filed	
Application Type:	Utility	Status Date:	10-19-2004	
Examiner Name:	PARKIN, JEFFREY S	Location:	ELECTRONIC	
Group Art Unit:	1648	Location Date:	-	
Confirmation Number:	2289	Earliest Publication No:	-	
Attorney Docket Number:	1721-29	Earliest Publication Date:	-	
Class/ Sub-Class:	424/188.1	Patent Number:	-	
First Named Inventor:	Francisco Veas, Mauguio, (FR)	Issue Date of Patent:	-	
Title Of Invention: Gp 120 mutants and biological applications				

Select Search Option

Assignments

Display References

Foreign Priority

Image File Wrapper

Publication Review

Search

File History	
Date	Contents Description
03-07-2005	Advisory Action (PTOL-303)
11-21-2004	Date Forwarded to Examiner
11-02-2004	Amendment/Argument after Notice of Appeal
11-02-2004	Workflow incoming amendment IFW
10-07-2004	Notice of Appeal Filed

10-07-2004	Request for Extension of Time - Granted
04-07-2004	Mail Final Rejection (PTOL - 326)
04-05-2004	Final Rejection
02-03-2004	IFW Amended case processing Complete
02-03-2004	Date Forwarded to Examiner
01-02-2004	Response after Non-Final Action
01-02-2004	Request for Extension of Time - Granted
02-03-2004	Correspondence Address Change
01-09-2004	CRF Is Good Technically / Entered into Database
07-02-2003	Mail Non-Final Rejection
06-30-2003	Non-Final Rejection
07-19-2001	Miscellaneous Incoming Letter
08-20-2001	Case Docketed to Examiner in GAU
08-17-2001	Application Dispatched from OIPE
07-27-2001	IFW Scan & PACR Auto Security Review
07-19-2001	Correspondence Address Change
07-18-2001	Released to OIPE
07-18-2001	Notice of DO/EO Acceptance Mailed
06-21-2001	Applicant 371 Filing Paper Received
06-29-2001	Notice of DO/EO Missing Requirements Mailed
06-22-2001	371 Application Preexamination Docketing
06-22-2001	371 Application Preexamination Docketing
06-20-2001	371 Application Preexamination Docketing
05-25-2001	Receipt of 371 Request
06-20-2001	Correspondence Address Change
06-21-2001	Initial Exam Team nn

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Image File Wrapper for Application No.:09/856,707

NEW

Changes to IFW Download - Updated: 11/30/2004

This application is officially maintained in electronic form. To View: Click the desired Document Description. To Download and Print: Check the desired document(s) and click Download.

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11/02/2004	<u>Amendment After Final</u>	PROSECUTION	2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11/02/2004	<u>Applicant Arguments or Remarks Made in an Amendment</u>	PROSECUTION	2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11/02/2004	<u>Claim</u>	PROSECUTION	2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10/07/2004	<u>Notice of Appeal Filed</u>	PROSECUTION	1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
04/07/2004	<u>Claims recorded on File Wrapper</u>	PROSECUTION	1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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01/02/2004	<u>CRF Sequence Listing Filed</u>	PROSECUTION	1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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06/29/2001	Notice of DO/EQ Missing Requirement Mailed	PROSECUTION	1	<input type="checkbox"/>
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05/25/2001	Foreign Priority Papers Filed	PROSECUTION	28	<input type="checkbox"/>
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05/25/2001	Fee Worksheet (PTO-875)	PROSECUTION	1	<input type="checkbox"/>
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05/25/2001	NPL Documents	PRIOR ART	12	<input type="checkbox"/>
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